

*Subject*

LS-1166

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Chief, Administrative Services

6 February 1952

Office of General Counsel

Purchase of Cafeteria Equipment

1. With reference to your memorandum of January 3, 1952, concurred in by IAS, the attached requisition covering a number of items of cafeteria equipment and the estimate of cost of installation in the subject plant, are hereby returned to you.

2. In an effort to secure additional information pertaining to applicable law and decisions of the Comptroller General, this office had an informal conference with a member of the legal staff of the General Accounting Office. Their views of the law may be summarized as follows:

a. Cafeteria equipment is a specific type of equipment that may not be relegated to the category of general equipment and procured under normal authority for the purchase of equipment.

b. Authorization to purchase cafeteria equipment must be based on the determination that it is necessary to the functions of the Agency. This need is much greater than assistance or aid or benefit and is usually reflected in a specific appropriation or a mandate to subsist employees.

c. The General Accounting Office does not feel that a lunch room or a cafeteria normally could be considered a necessary adjunct to the proper functioning of a department or a large bureau. The Comptroller General representative did not feel that his office could accept general security considerations as taking this Agency outside the purview of regulations and determinations relating to the purchase of cafeteria equipment by other agencies.

Although the cited case was not four square with our present fact situation, the rationale is equally applicable. (10 Comp. Gen. 1140)

3. Under the normal concepts of expenditure of funds, the purchase and installation of the subject equipment is legally objectionable. However, inclusion in the Agency budget for fiscal year 1953 would cure the legal defects and you may wish to consider such action.

4. In the event it is determined specifically that security requirements are such as to require expenditures of this nature for protection of classified material, there is of course, residual authority under Section 10(b) of P. L. 110 for the use of unvouchered funds for the purposes indicated.

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Approved For Release 2005/02/10 : CIA-RDP57-00384R000200080015-8

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